

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:21-CR-600 RLW
)	
ROBERT K. KINNEY,)	
)	
Defendant.)	

ORDER

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Stephen R. Welby (ECF No. 116).

Defendant Robert K. Kinney filed a Motion to Suppress Evidence (ECF No. 91) that seeks to suppress all physical evidence seized from his person and vehicle during a traffic stop on July 29, 2021, on the basis that law enforcement officers did not have reasonable suspicion of criminal activity to justify the vehicle stop. (*Id.* at 3.) The United States filed a Response in Opposition to Defendant’s Motion (ECF No. 97).

Pursuant to 28 U.S.C. § 636(b), this matter was referred to Judge Welby, who held an evidentiary hearing on Defendant’s Motion on March 15, 2023 (ECF No. 102). The Government presented testimony from four law enforcement witnesses and introduced five exhibits into evidence. Defendant did not offer any witnesses or exhibits but cross-examined the Government’s witnesses. At the end of the hearing, Defendant raised a new argument, that law enforcement’s use of a controlled tire deflation device (“spike strip”) to stop his vehicle while he was not speeding and without first giving warning by use of emergency lights or sirens was unreasonable and violated the Fourth Amendment.

Judge Welby asked the parties to brief the new issue whether it was reasonable under the circumstances of the case for law enforcement officers to stop Defendant's vehicle by deploying a spike strip. The United States filed a post-hearing brief addressing the issue (ECF No. 110), but Defendant did not.


The Magistrate Judge filed the instant Report and Recommendation on May 22, 2023. Neither party submitted objections to the Report and Recommendation within the fourteen (14) day period allowed pursuant to 28 U.S.C. § 636(b)(1), which required that objections be filed by June 5, 2023. The Magistrate Judge recommends that Defendant Kinney's Motion to Suppress Evidence be denied.

After de novo review of Defendant's Motion, the United States' Response in Opposition and post-hearing brief, the evidentiary hearing transcript and exhibits, the Magistrate Judge's Report and Recommendation, and the Court's independent review of relevant case law, this Court adopts the Magistrate Judge's recommendation in full.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate (ECF No. 116) is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that Defendant Kinney's Motion to Suppress Evidence (ECF No. 91) is **DENIED**.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 8th day of June, 2023.